



PUBLIC NOTICE

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FCC ENFORCEMENT ADVISORY

HEARING AID COMPATIBILITY FOR WIRELESS TELEPHONES

WIRELESS HANDSET MANUFACTURERS ADVISED TO ENSURE ACCURATE REPORTING OF WIRELESS HEARING AID COMPATIBILITY COMPLIANCE

Handset Manufacturers Must Make Annual Compliance Filing By July 15, 2013

The Enforcement Bureau reminds wireless handset manufacturers of their obligation to report on compliance with the hearing aid compatibility rules on or before July 15, 2013.¹ The hearing aid compatibility rules ensure that individuals with hearing loss can fully access advanced wireless phone services without excessive feedback or noise.

QUICK GUIDE

- **Reporting Deadline:** Wireless handset manufacturers must file required hearing aid compatibility status reports by July 15, 2013.
- **Inaccurate Reports:** The Bureau has observed that hearing aid compatibility status reports filed by manufacturers (and service providers) often contain errors. Given the upcoming reporting deadline, we urge manufacturers to exercise diligence in making the representations required by the hearing aid compatibility rules. The failure to do so undermines the ability of consumers to access reliable information on the availability of hearing aid-compatible handsets and confuses other market participants.
- **Timely Corrections:** Manufacturers that have already filed their 2013 hearing aid compatibility status reports should review such filings for accuracy and completeness and amend their filings as necessary to correct any errors before the filing deadline.
- **No De Minimis Exception:** We emphasize that (i) a manufacturer's failure to familiarize itself with the relevant law does not excuse noncompliance; and (ii) there is no *de minimis* exception to the wireless hearing aid compatibility reporting requirement. All wireless handset manufacturers must timely file hearing aid compatibility status reports, regardless of the number of handset models they offer.
- **Monetary Liability:** Since 2011, the Commission has taken hearing aid compatibility enforcement actions valued at more than \$2.9 million, including a proposed \$12,000 monetary penalty for a manufacturer's failure to timely file its 2012 hearing aid compatibility status report. (See *Kyocera Communications, Inc.; Kyocera Corp.*, DA 13-35).

¹ The filing deadline for these reports is July 15th each year. When the 15th of the month falls on a weekend or holiday, the report is due on the next business day. See 47 C.F.R. § 1.4; see also Hearing Aid Compatibility Status Reporting at <http://wireless.fcc.gov/hac>.

As we have previously explained, the Bureau's heightened enforcement posture recognizes that the hearing aid compatibility rules have been in place for almost a decade and that manufacturers should now have implemented robust programs to ensure compliance with these important rules.

What do the hearing aid compatibility rules require of manufacturers? Commission rules require most wireless handset manufacturers to offer a minimum number of hearing aid-compatible handsets, making their products accessible to consumers with hearing loss.² Manufacturers that offer any new handset model for a particular air interface³ during a calendar year also must partially “refresh” their hearing aid-compatible handset offerings to ensure that the handsets available to consumers with hearing loss include the newest and most advanced technologies.⁴

To provide consumers with up-to-date information on the availability of hearing aid-compatible handsets and enable the Commission to monitor compliance, Commission rules also require manufacturers to file periodic status reports and post specific information on their public websites.⁵ The status reports and web content offer valuable information to the public concerning the technical testing and commercial availability of hearing aid-compatible handsets.

As noted above, a manufacturer's failure to familiarize itself with these requirements does not excuse noncompliance. Similarly, there is no *de minimis* exception to the wireless hearing aid compatibility reporting requirement.⁶

How important is accurate reporting? Inaccurate reports hamper the Commission's ability to monitor the deployment of hearing aid-compatible handsets and impede compliance with the hearing aid compatibility rules themselves. Manufacturers (and service providers) are obligated to *accurately* report their handset offerings in their annual hearing aid compatibility status reports.⁷

The Bureau has found inaccuracies in the relevant hearing aid compatibility handset rating, model name, and FCC ID, as well as the time period during which such handsets were offered. Errors in manufacturer reports may then be replicated by other entities, creating a daisy chain of non-compliance. The Commission's Equipment Authorization System is the most reliable source for information on a handset's hearing aid compatibility rating,⁸ and the Bureau urges all filers to ensure that the handset model rating reported in their hearing aid compatibility status reports is consistent with the rating in the grant of equipment authorization. Manufacturers that have already filed their 2013 hearing aid compatibility status reports should review their filings for accuracy and completeness and amend their filings as necessary to correct any errors before the filing deadline. Errors that

² The full text of the wireless hearing aid compatibility rules is set forth at 47 C.F.R. § 20.19. Among other things, these rules include technical standards that digital wireless handsets must meet to be considered compatible with hearing aids operating in acoustic coupling and inductive coupling (telecoil) modes, and establish deadlines by which manufacturers are required to offer specified numbers or percentages of handsets per air interface that comply with the relevant standard.

³ The term “air interface” refers to the technical protocol, such as Code Division Multiple Access (CDMA), that ensures compatibility between mobile radio service equipment (e.g., wireless handsets) and the service provider's base stations.

⁴ See, e.g., 47 C.F.R. § 20.19(c)(1)(ii) (requiring manufacturers to offer a mix of new and existing models that comply with paragraph (b)(1) of this section); *Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, Third Report and Order, 27 FCC Rcd 3732, 3733, para. 3 n.2 (2012).

⁵ See 47 C.F.R. § 20.19(h), (i).

⁶ Manufacturers offering two or fewer digital wireless handset models per air interface may qualify for the *de minimis* exception (47 C.F.R. § 20.19(e)) to the hearing aid-compatible handset deployment benchmarks, but they must still comply with the reporting requirement in 47 C.F.R. § 20.19(i). Effective September 10, 2012, the *de minimis* deployment exception is unavailable to manufacturers that do not meet the definition of a “small entity” beginning two years after their initial offerings. See *id.* § 20.19(e)(1)(ii); see also *Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, Policy Statement and Second Report and Order and Further Notice of Proposed Rulemaking, 25 FCC Rcd 11167, 11180–89, paras. 35–59 (2010).

⁷ See 47 C.F.R. § 20.19(i).

⁸ The Equipment Authorization System is an electronic database of all equipment certified under Commission authority. The database identifies the hearing aid compatibility rating of each handset by FCC ID, as reported by the handset manufacturer in test reports submitted to the Commission at the time of an equipment authorization or of any modification to such authorization. See <http://transition.fcc.gov/oet/ea/fccid/>.

may be subsequently discovered should be immediately reported to the Wireless Telecommunications Bureau so the associated reports can be promptly corrected. We will consider taking additional enforcement actions in this area if this problem persists.

What happens if manufacturers or service providers do not comply with the rules? We intend to strictly enforce the hearing aid compatibility rules, and will impose escalating penalties on manufacturers that persist in their failure to file the required reports or otherwise fail to comply with these rules.

- Failure to comply with the digital wireless handset deployment requirements may result in monetary forfeitures starting at \$15,000 per violation. In 2012, the Commission revised its approach to the assessment of base forfeitures for violations of the hearing aid-compatible handset deployment requirements in order to more fully reflect the significance of these violations and to better deter future noncompliance. Specifically, the Commission began applying the \$15,000 base forfeiture to *each* failure to offer a hearing aid-compatible handset during *each* month of the reporting year.⁹
- Failure to comply with the reporting and web site posting requirements may result in monetary forfeitures starting at \$6,000 per violation.
- These base forfeiture amounts are subject to adjustment based on aggravating or mitigating factors. The Communications Act and Commission rules authorize forfeitures against non-common carriers of up to \$16,000 for each violation, or for each day of a continuing violation, up to a maximum of \$112,500 for a single act or failure to act.¹⁰

Need more information? To file a hearing aid compatibility status report, visit <http://wireless.fcc.gov/hac>. For additional information regarding enforcement of the wireless hearing aid compatibility rules, please contact John D. Poutasse, (202) 418-2172, John.Poutasse@fcc.gov, or Pamela Hairston, (202) 418-1165, Pamera.Hairston@fcc.gov of the Enforcement Bureau. For general information on compliance with the wireless hearing aid compatibility rules, contact Christina Clearwater, (202) 418-1893, Christina.Clearwater@fcc.gov, or Eli Johnson, (202) 418-1395, Eli.Johnson@fcc.gov of the Wireless Telecommunications Bureau.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), (202) 418-0432 (TTY). You may also contact the Enforcement Bureau on its TTY line at (202) 418-1148 for further information about this Enforcement Advisory, or the FCC on its TTY line at 1-888-Tell-FCC (1-888-835-5322) for further information about the wireless hearing aid compatibility rules.

Media inquiries should be directed to Mark Wigfield, (202) 418-0253, Mark.Wigfield@fcc.gov.

Issued by: Acting Chief, Enforcement Bureau

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⁹ See *T-Mobile USA, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 4405, 4415, paras. 22-23 (2012); see also *HTC Am., Inc.*; *HTC Corp.*, Order and Consent Decree, 27 FCC Rcd 10819, 10823, para. 3 n.13 (2012).

¹⁰ See 47 U.S.C. § 503(b)(2)(D); 47 C.F.R. § 1.80(b)(7).